

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHARLES RICE KENDALL and	:	
ANN P. HOCHBERG, as Trustees for	:	
The Thomas E. Proctor Heirs Trust,	:	
	:	
Plaintiffs,	:	
v.	:	NO. 21-CV-01491
	:	
EQT AMD LLC, EQT ARO LLC,	:	
INTERNATIONAL DEVELOPMENT	:	CHIEF JUDGE BRANN
CORP., and SWN PRODUCTION	:	
COMPANY, LLC,	:	
	:	ELECTRONICALLY FILED
Defendants.	:	

**DEFENDANTS EQT AMD LLC AND EQT ARO LLC's MOTION TO
STAY PENDING RESOLUTION OF THIRD CIRCUIT APPEAL**

Defendants EQT AMD LLC and EQT ARO LLC (collectively “EQT”) hereby move this Court to stay this action pending ultimate resolution of an appeal raising substantially overlapping and controlling issues in *Pennsylvania Game Comm'n v. Thomas E. Proctor Heirs Trust*, No. 22-1587 (3d Cir.) (hereinafter the “Third Circuit Appeal”).

“Counsel for all parties endorsed an order staying proceedings” during a Status Conference with this Court on May 16, 2023, “but they differed on what the parameters of that [stay] order should be.” (See May 18, 2023 Order at 2 (ECF 49).) In its effort to cabin the stay and proceed with this subsumed litigation before the Third Circuit Appeal is concluded, the Proctor Heirs Trust (“PHT”) suggests that the

issues extant in the Third Circuit Appeal impact only “the thirteen Unassessed Properties, and, as such any stay issued by this Court should be limited to those tracts” and “the case should proceed as to the remaining 31 tracts at issue.” (*Id.* at 2.) PHT is wrong. The Act of 1815’s two-year limitations period and the question of duty by landowners to pay tax on unseated lands are squarely at issue in the Third Circuit Appeal and apply, to a greater or lesser degree, to all 44 tracts at issue in this litigation. Given that these issues animate the Third Circuit Appeal, and given that the Third Circuit recognizes the need (after being implored by PHT) for a determination from the Pennsylvania Supreme Court, a stay of this matter is appropriate pending resolution of the Third Circuit Appeal.

Consistent with this Court’s practice, this matter should be stayed and the parties should provide periodic status reports concerning the Third Circuit Appeal. Based upon the arguments of counsel during the Status Conference on May 16, 2023, EQT presents this as a contested motion and files a certificate of non-concurrence along with its Memorandum in Support.

WHEREFORE, for the reasons set forth above and in the accompanying Memorandum of Law which is incorporated herein by reference, Defendants EQT AMD LLC and EQT ARO LLC move this Court for a stay of this action in its entirety pending ultimate resolution of the Third Circuit Appeal in *Pennsylvania Game Comm’n v. Thomas E. Proctor Heirs Trust*, No. 22-1587 (3d Cir.).

Respectfully submitted:

/s/ John B. Dempsey

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Date: June 6, 2023

CERTIFICATE OF NONCONCURRENCE

Based upon the positions expressed by opposing counsel during a Status Conference before the Court on May 16, 2023, I, John B. Dempsey, hereby certify that the Thomas E. Proctor Heirs Trust does not concur in this Motion.

/s/ John B. Dempsey
John B. Dempsey

Date: June 6, 2023

CERTIFICATE OF SERVICE

I, John B. Dempsey, hereby certify that a true and correct copy of the foregoing Motion To Stay was served upon the following counsel of record via the Court's ECF system on this 6th day of June 2023:

/s/ John B. Dempsey
John B. Dempsey